



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/394,867	09/13/1999	DAVID A. WILLIAMS	7037-377/IU-	5039

7590

07/02/2002

THOMAS Q HENRY  
WOODARD EMHARDT NAUGHTON MORIARTY  
AND MCNETT BANK ONE CENTER TOWER  
111 MONUMENT CIRCLE SUITE 3700  
INDIANAPOLIS, IN 462045137

EXAMINER

NGUYEN, DAVE TRONG

ART UNIT	PAPER NUMBER
----------	--------------

1632

DATE MAILED: 07/02/2002

16

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**Application No.  
**09/394,867**

Applicant(s)

**Williams**

Examiner

**Dave Nguyen**

Art Unit

**1632**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Jun 13, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Jun 13, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s):  
rejections applied to canceled claims as a result of the entry of the amendment filed 6/13/02

4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
of the reasons set forth in the sheet attached to this advisory action.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE

Claim(s) objected to: NONE

Claim(s) rejected: 11-23, 38-43, and 79-83

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

10. ☐ Other: \_\_\_\_\_

Claims 24-37, 44-78 and 84-93 have been canceled, claim 82 has been amended by the amendment after final dated June 13, 2002.

As a result of the claim amendment by the amendment after final, the remaining issue is the prior art rejection and applicant states that it has been determined by that inventor Patel should be added to the present application, and that once the petition to correct inventorship is processed and correct, all prior art rejection should be withdrawn by the examiner. Applicant's comments are not found persuasive for any withdrawal of any outstanding prior art rejection subjected to any remaining and pending claim at this time. Furthermore, applicant is reminded by that the request to consider the validity of any petition for inventorship correction is a newly raised issue and would require further consideration and examination by the examiner, and as such, the petition, should it be submitted in any after final response, will not be entered for consideration by the examiner. Furthermore, note that presently pending claims embracing product-by process claims do not distinguish from that of the prior art of record even without the disclosure of the patent disclosure of Patel and Williams, and thus, would remain properly rejected by the prior art of record.

Any inquiry concerning this communication or earlier communications regarding the formalities should be directed to Patent Analyst Dianiece Jacobs, whose telephone number is **(703) 305-3388**.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **(703) 305-2024**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Deborah Clark*, may be reached at **(703) 305-4051**.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is **(703) 305-7401**.

Any inquiry of a general nature or relating to the status of this application should be directed to the *Group receptionist* whose telephone number is **(703) 308-0196**.

Dave Nguyen  
Primary Examiner  
Art Unit: 1632



DAVE T. NGUYEN  
PRIMARY EXAMINER